

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff

v.

\$41,400.00 IN U.S. CURRENCY

Defendant in rem.

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CIVIL ACTION NO. 4:11-cv-00253

**CLAIMANT’S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF’S
VERIFIED COMPLAINT**

Patrice Nya Kamdoun (“Claimant”), by and through his attorney of record, files this Answer and Affirmative Defenses in response to Plaintiff’s Verified Complaint and respectfully states:

1. Claimant admits to the nature of the action in paragraph 1, but denies that Plaintiff is entitled to any relief under the action stated in paragraph 1.
2. Claimant admits as to Defendant in rem in paragraph 2.
3. Claimant admits as to jurisdiction and venue in paragraphs 3 and 4, respectively.
4. The alleged bases for forfeiture in paragraphs 5, 6, & 7 are legal conclusions and require no response, but in an abundance of caution, they are denied.
5. Claimant denies the factual allegations contained in paragraphs 8 & 9.
6. Claimant denies that Plaintiff is entitled to the relief requested in paragraph 10.

AFFIRMATIVE DEFENSES

7. The Plaintiff’s attempt to forfeit the entire \$41,400.00 is contrary to the Excessive Fines Clause of the Eighth Amendment. A violation of the Clause requires the

Court to immediately remit the defendant property to the Claimant. *United States v. Hosep Krikor Bajakajian*, 118 S. Ct. 2028 (1998).

8. Claimant asserts, as bailee, the innocent owner defense under 18 U.S.C. § 983(d) and has standing to claim this affirmative defense under 18 U.S.C. § 983(d)(6). The bailor is a Cameroonian trading company, engaged in the business of buying and selling wine and second-hand cars. The above-identified bailor transferred possession of the instant currency to the Claimant for the purpose of paying for his travel expenses and for the purchase of wine and second-hand cars abroad for the company. The Claimant, as bailee, is seeking to reclaim the instant currency for return to the company in Cameroon, the innocent owner.

WHEREFORE, the Claimant, Patrice Nya Kamdoun, respectfully requests the Court to dismiss this cause of action; to order the immediate remission of the defendant property to the Claimant; to award reasonable attorneys fees and other litigation costs pursuant to 28 U.S.C. § 2465(b)1(A); and to award pre-judgment interest pursuant to 28 U.S.C. § 2465(b)(1)(C).

Dated: April 12, 2011

Respectfully submitted,
GIVENS & JOHNSTON, PLLC

By /s/ Clinton K. Yu
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ATTORNEY FOR CLAIMANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Claimants' Claim and Statement of Interest was sent by email to Albert Ratliff, Assistant United States Attorney, on the 12th day of April, 20 11, via the Southern District of Texas Electronic Case Filing System.

/s/ Clinton K. Yu
Clinton K. Yu
Attorney for Claimant